United States Court of Appeals

for the Second Circuit

APPELLEE'S APPENDIX

77-6014

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

Docket No. 77-6014

B

PETER COLLASO, CHARLOTTE L. COLLASO, PETER CHARLES COLLASO, JOSEPH CARL COLLASO, JANE CAROL COLLASO, DAVID CHRISTOPHER COLLASO, MARY CHARLOTTE COLLASO & PAUL MICHAEL COLLASO,

Plaintiffs-Appellants,

- against -

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, UNITED STATES GOVERNMENT,

Defendant-Appellee

UNITED STATES COURT OF APPEALS
FILED
MAY 25 1977
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

APPELLEES' APPENDIX

DAVID G. TRAGER
United States Attorney
Eastern District of New York

PAGINATION AS IN ORIGINAL COPY

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A1 1

(15)

I D

January 21, 1971

#15

Mr. Byron R. Renick
Department of Health, Education & Welfare
Bureau of Hearings & Appeals
Room 1019
500 Quarrier Street
Charleston, West Virginia 25301

Dear Mr. Renick:

I am very glad that you have decided that I was truthful with all my dealings with the Social Security Office and that I do not owe the government any money.

As I already stated on the day of the hearing, December 16, 1970, I do believe in good conscience that the government owes me $1,119.60 in benefits that I didn't receive while I was receiving benefits and at least four more full monthly benefits to cover the period that I was unemployed due to the Social Security investigation which most likely also involved the police and made me lose my good job with ITT since there isn't any company that wants to have an ex-mental patient in its staff or any complication with the government or authorities.

(1) Pending for damages (2) (3)

Also, as I already stated at the hearing, the Social Security office has caused me great anguish, fear, mental suffering, family problems and ruined my good credit by stopping payments several times during 1966 and 1967 while I was hopelessly abroad with my wife and six children and I couldn't do any work to help my situation.

As you already know, I had a Ready Credit availability with the 1st National City Bank, Acct. #81126384 which was ruined because of the stop payments. Also, I had a car loan with Manufacturer-Hanover Trust Co., Acct. #2445-3526, Macy, A & S, Sterns which were all also ruined because of the stop payments.

discrimination

In December, 1970, I tried once again to reopen a Ready Credit with First National City Bank in the amount of $1500 so that I can build two rooms in the basement for my children since we have only three bedrooms available for eight people, no toilet facilities in the basement and no place for the children to play except in a cold cement floor.

conclusion →

So, as you can see, decency would urge the government to see that it has an obligation to correct an injustice and reimburse $1,119.60 in benefits not received and 4 months benefits for unemployment due to Social Security investigations and some extra to compensate for the destruction of a good credit rating as mentioned above so that the children will not suffer any more hardships and can have a place to sleep and play.

Enclosed are First National City Bank letter dated December 31, 1970, Manufacturers Hanover Trust Company letter dated August 27, 1969 and my letter to the Credit Bureau dated January 13, 1970.

I hope to hear from you soon and that in God's name you can remedy the wrong committed.

Sincerely yours,

Peter T. Collaso

798 East 22 Street
Brooklyn, New York 11210

Enclosures (3)

BEST COPY AVAILABLE

CLAIM FOR DAMAGE, INJURY, OR DEATH

INSTRUCTIONS: Prepare in ink or typewriter. Please ... carefully the actions on the reverse side and supply information r... ted on both s of the form. Use additional sheet(s) if necessary.

OM and B Approval No. 80-R111

A 3

1. SUBMIT TO:

DEPT. HEALTH EDUCATION WELF
SOCIAL SECURITY ADM.
BALTIMORE, MARYLAND 21235

2. NAME AND ADDRESS OF CLAIMANT (Number, street, city, State, and Zip Code)

MR. PETER T. COLLASO
799 EAST 22ND STREET
BROOKLYN, NEW YORK 11210

3. TYPE OF EMPLOYMENT
☐ MILITARY
☒ CIVILIAN

4. AGE: 44

5. MARITAL STATUS: MARRIED

6. NAME AND ADDRESS OF SPOUSE, IF ANY (Number, street, city, State, and Zip Code)

CHARLOTTE
799 EAST 22nd STREET
BROOKLYN, NEW YORK 11210

7. PLACE OF ACCIDENT (Give city or town and State. If outside city limits, indicate mileage or distance to nearest city or town)

NERVOUS BREAKDOWN IN WASHINGTON, D.C.

8. DATE AND DAY OF ACCIDENT: FEB./62

9. TIME (A.M. OR P.M.): P.M.

10. AMOUNT OF CLAIM (in dollars)

A. PROPERTY DAMAGE	B. PERSONAL INJURY	C. WRONGFUL DEATH	D. TOTAL
NONE	$ 200,000.00	NONE	200,000.00

11. DESCRIPTION OF ACCIDENT (State below, in detail, all known facts and circumstances attending the damage, injury, or death, identifying persons and property involved and the c...

Several Stop Payments of Social Security Payment Which Caused Family Arguments, Mental Anguish to All Members Of My Family, My Good Credit Rating Ruined, Made the Children Nervous, Ruined my Good Name by the Dept. Investigations and Harassments. Deprived The Children Of The Basic Needs of Existence, Food, Shelter & Clothing Et al.

12. PROPERTY DAMAGE

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State and Zip Code)

BRIEFLY DESCRIBE KIND AND LOCATION OF PROPERTY AND NATURE AND EXTENT OF DAMAGE (See instructions on reverse side for method of substantiating claim)

13. PERSONAL INJURY

STATE NATURE AND EXTENT OF INJURY WHICH FORMS THE BASIS OF THIS CLAIM

SAME AS THE ITEMS MENTIONED IN ARTICLE 11 ABOVE OF THIS FORM.

14. WITNESSES

NAME	ADDRESS (Number, street, city, State, and Zip Code)
[illegible]	[illegible] MARYLAND 21235

15. I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM

15. SIGNATURE OF CLAIMANT (This signature should be used in all future correspondence)	16. DATE OF CLAIM
Peter T. Collaso	March 5/15

CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM

The claimant shall forfeit and pay to the United States the sum of $2,000, plus double the amount of damages sustained by the United States. (See R.S. 3490, 3493, 31 U.S.C. 231.)

CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS

Fine of not more than $10,000 or imprisonment for not more than 5 years or both. (See 62 Stat. 698, 749; 18 U.S.C. 287, 1001.)

GENERAL SERVICES ADMINISTRATION—FPMR 101-11.8
105

STANDARD FORM 95
REVISED FEBRUARY 1971
GSA FPMR 101-11.8

13-126-0259

INSTRUCTIONS

Complete all items—Insert the word NONE where applicable

Claims for damage to or for loss or destruction of property, or for personal injury, must be signed by the owner of the property damaged or lost or the injured person. If, by reason of death, other disability or for reasons deemed satisfactory by the Government, the foregoing requirement cannot be fulfilled, the claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with said claim establishing authority to act.

If claimant intends to file claim for both personal injury and property damage, claim for both must be shown in item 10 of this form. Separate claims for personal injury and property damage are not acceptable.

The amount claimed should be substantiated by competent evidence as follows:

(*a*) In support of claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(*b*) In support of claims for damage to property which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(*c*) In support of claims for damage to property which is not economically reparable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

Any further instructions or information necessary in the preparation of your claim will be furnished, upon request, by the office indicated in item #1 on the reverse side.

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of his vehicle or property.

17. DO YOU CARRY ACCIDENT INSURANCE? ☐ YES, IF YES, GIVE NAME AND ADDRESS OF INSURANCE COMPANY (*Number, street, city, State, and Zip Code*) AND POLICY NUMBER. ☐ NO

18. HAVE YOU FILED CLAIM ON YOUR INSURANCE CARRIER IN THIS INSTANCE, AND IF SO, IS IT FULL COVERAGE OR DEDUCTIBLE?

19. IF DEDUCTIBLE, STATE AMOUNT

20. IF CLAIM HAS BEEN FILED WITH YOUR CARRIER, WHAT ACTION HAS YOUR INSURER TAKEN OR PROPOSES TO TAKE WITH REFERENCE TO YOUR CLAIM? (*It is necessary that you ascertain these facts*)

21. DO YOU CARRY PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE? ☐ YES, IF YES, GIVE NAME AND ADDRESS OF INSURANCE CARRIER (*Number, street, city, State, and Zip Code*) ☐ NO

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

A 5

July 2, 1975

IAD-43
SSA Case No. 75-23

Mr. Peter T. Collaso
790 East 22nd Street
Brooklyn, New York 11210

Dear Mr. Collaso:

After considering all of the evidence in your case, the Department Claims Officer disallowed your claim for payment for your nervous condition.

In order for a claim to be allowed under the Federal Tort Claims Act, it must be established that the property damage or personal injury alleged by the claimant was the result of negligence on the part of the Government or its employees. The facts surrounding your accident do not establish such negligence.

If you are dissatisfied with this determination you have two alternative courses of action, either of which must be taken within six months from the date of this letter.

First, you may request that your claim be reconsidered by the Department Claims Officer. This request for reconsideration must be in writing and forwarded to me at Room 1219, Annex, Baltimore, Maryland 21235.

Your second remaining remedy is against the United States. This may be done immediately or after reconsideration by the Department Claims Officer. You must file suit in the appropriate United States Federal District Court within six months of the mailing of this notice.

Sincerely yours,

Ernest J. Weiss, Jr.
SSA Claims Officer

IAD-43:EJWEISS, JR./ses/7/2/75

FILE COPY

OFFICE	SURNAME	DATE	OFFICE	SURNAME	
		7/3/75			

GPO 1972-459-751

7.5C 961

SUMMONS IN A CIVIL ACTION

CIV. 1a (2-44)
(Formerly D.C. Form No. 45a Rev. (6-43))

United States District Court

FOR THE

Eastern District of New York

CIVIL ACTION FILE NO. _____

750 1153

Plaintiff

v.

SUMMONS

Defendant

To the above named Defendant :

You are hereby summoned and required to serve upon

plaintiff's attorney , whose address

an answer to the complaint which is herewith served upon you, within days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

_____
Clerk of Court.

_____
Deputy Clerk.

Date:

[Seal of Court]

NOTE:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

UNITED STATES DISTRICT COURT (BROOKLYN)
EASTERN DISTRICT OF NEW YORK

PETER T. COLLASO, individual
798 East 22 Street
Brooklyn, New York 11210

CHARLOTTE L. COLLASO, individual
798 East 22 Street
Brooklyn, New York 11210

PETER CHARLES COLLASO, individual
798 East 22 Street
Brooklyn, New York 11210

JOSEPH CARL COLLASO, individual
798 East 22 Street
Brooklyn, New York 11210

JANE CAROL COLLASO, individual
798 East 22 Street
Brooklyn, New York 11210

DAVID CHRISTOPHER COLLASO, individual
798 East 22 Street
Brooklyn, New York 11210

MARY CHARLOTTE COLLASO, individual
798 East 22 Street
Brooklyn, New York 11210

PAUL MICHAEL COLLASO, individual
798 East 22 Street
Brooklyn, New York 11210

Plaintiffs

against

DEPARTMENT OF HEALTH, EDUCATION & WELFARE
U. S. GOVERNMENT

Defendant

Plaintiffs, Peter T. Collaso, Charlotte L. Collaso, Peter Charles Collaso, Joseph Carl Collaso, Jane Carol Collaso, David Christopher Collaso, Mary Charlotte Collaso and Paul Michael Collaso, for their complaint against the defendant, allege as follows:

(1) Plaintiff is an American citizen, domiciled within the Eastern District of New York, who is an attorney-at-law by profession. On December 5, 1955, the Social Security Bureau made a formal determination that Plaintiff was entitled to disability insurance

benefits due to a nervous breakdown in February 1961. It established the month of August 1965 as the first date of entitlement and commencing that date.

(2) Between December 5, 1965 and to September 5, 1968, there were several stop payments and delays in issuing benefits by the defendant due to clerical errors which caused the plaintiff and his family many agonies, family quarrels, made the plaintiff's six children nervous and deprived them of the basic needs of existence, food, shelter and clothing; also, caused the plaintiff's credit rating to become bad and ruined for the future since Macy's , Manufacturers, Hanover Trust, First National City Bank, Abraham & Straus, Sterns reported lack of payment to the credit bureau.

(3) The plaintiff has sought legal aid and advice from Legal Aid and Legal Services Corp., but has been turned down since these agencies do not want to sue the defendant which is against the 14th Amendment and the 5th amendment of the Constitution of due process of law, also refer to 73C63 in which the government made delays after delays in a just settlement on a legal technicality and even after that didn't obey its law Title 28, United States Code SS 2675 (a).

(4) The defendant has also ruined the future and has committed character assassination by its investigation of the plaintiff.

(5) The plaintiff has also been discriminated against obtaining a good job and supporting his family either due to age or items in (4) above.

The plaintiffs demand a trial to collect a minimum of [illegible] damage for all the agonies, character assassination, [illegible], family quarrels due to lack of money, not having the [illegible] of law and job discrimination.

WHEREFORE, the plaintiffs demand judgment against the defendant in the sum of $200,000 together with the cost and disbursement of the action.

Peter T. Collaso
Peter T. Collaso

Charlotte L. Collaso
Charlotte L. Collaso

Peter C. Collaso
Peter Charles Collaso

Joseph C. Collaso
Joseph Carl Collaso

Jane C. Collaso
Jane Carol Collaso

David C. Collaso
David Christopher Collaso

Mary C. Collaso
Mary Charlotte Collaso

Paul Michael Collaso
Paul Michael Collaso

Dated: New York, New York
July 21, 1975

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----------x

PETER T. COLASSO, et al.,

Plaintiffs,

v.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, UNITED STATES GOVERNMENT,

Defendant.

----------x

75-C-1153

MEMORANDUM and ORDER

APR 21 1976.

COSTANTINO, D.J.

This is an action brought under the Federal Tort Claims Act for damages resulting from delays and the stopping of Social Security benefits between December 1965 and September 1968. Defendant moves for judgment on the pleadings.

Tort claims against the United States accruing prior to January 18, 1967, are barred unless an action is begun within two years after the accrual of such claims. 28 U.S.C. § 2401(b). No District Court action was begun in this matter until November 1, 1974. Thus, insofar as plaintiffs are alleging causes of action accruing prior to January 18, 1967, their claims are time barred.

A tort claim against the United States accruing on or after January 18, 1967 is barred unless it was presented in writing to the appropriate Federal agency within two years after such claim accrued. 28 U.S.C. § 2401(b). A claim is deemed presented when the Department of Health, Education and Welfare receives an executed Standard Form 95 or other written notification of an incident accompanied by a claim for money damages in a sum certain for damage to or loss of property, or for personal injury alleged to have occurred by reason of the incident, 45 CFR § 35.2. Here, plaintiffs' papers show that no written claim for a sum certain was made until January 21, 1971 when Peter Collaso sent a letter to Mr. Myron Renick of the Department of Health, Education and Welfare. Insofar as plaintiffs are alleging causes of action accruing between January 18, 1967 and September, 1968, these actions are also barred by plaintiffs' failure to make a claim within the two year period allowed by statute. Defendant's motion for judgment on the pleadings is granted. So ordered.

U. S. D. J.